

IN RE: DMITRIY KOZLOV
CHAPTER 13 Debtor

Case No. 14-14069 JKF

RESPONSE TO JP MORGAN CHASE BANK, N.A. 'S
MOTION FOR RELIEF FROM AUTOMATIC STAY

COMES NOW Dmitriy Kozlov by and through undersigned counsel and responds J.P. Morgan Chase Bank,N.A.'s Motion for Relief from automatic stay and alleges as follows:

1. Movant, JP Morgan Bank, N.A., hereinafter referred to as "Chase" is the servicer/holder of the mortgage encumbering thereal property of debtor at 751 Magee Avenue, Phila.Pa.

2. On or about 2011 this mortgage was modified and the principal balance was stated at that time. The modification agreement did not contain any statements regarding taxes being owed or outstanding. A copy of the modification agreement is attached hereto and incorporated herein as Debtor's Exhibit 1.

3. On or about 2014 Debtor filed for relief under chapter 13 of the U.S. Bankruptcy Code.

4. On or about 2014 "Chase" filed a Proof of claim setting forth the debt owned under the mortgage held by "Chase", but neglected to list any arrearage and did not disclose any claim for back real estate taxes. A copy of the Proof of Claim is attached hereto and incorporated herein as Debtor's exhibit No. 2.

5. On or about January 28, 2016 "Chase" sent an escrow and tax statement to Debtor for the review period 5/2004 through 2/20/2016 stating an escrow shortage of \$9,584.83 increasing the regular monthly mortgage payment from approx. \$1021.00 to \$1,814.55 which increased payment was to be effective as of April 1, 2016.

A). On page 2, the statement listed amount of -\$8,915.56 as an escrow shortage for withdrawals/charges from May 2004 through March 2016 which charges occurred during the years 2004- 2005.

6. Clearly the bank is trying to collect the escrow shortage over a one year period instead of listing shortage on its proof of claim which would have allowed debtor to divide the payments for the shortages over five years in his plan.

7. Debtor further states that he had a tax abatement for 751 Magee from the City of Philadelphia for a ten year period and thus did not owe 2004 or 2005 taxes.

8. "Chase" has not provided debtor with proof that it paid the 2004 or 2005 real estate taxes and debtor demands strict proof.

9. Debtor has continuously paid the monthly payment to Chase in the amount of \$1021.00 each month during 2016 believing that he did not owe the 2004 and 2005 taxes to "Chase".

10. If debtor does not owe "Chase" for the alleged payment of the 2004 and 2005 real estate taxes to the City of Philadelphia, then debtor is current under his mortgage obligations .

12. Chase having failed to include 2004 and 2005 alleged escrow shortages in its proof of claim and having failed to provide proof of payment to the City of Philadelphia of said taxes should be barred from collecting said taxes due to principals of res judicata due to the confirmation of debtor's plan.

13. Alternatively, if debtor does owe chase for the back 2004 and 2005 taxes then Chase should be required to file an amended proof of claim to include said taxes, and debtor should be allowed to file a modified plan of payment placing the arrears for the alleged escrow shortage in said modified plan, allowing him to pay same over the period of the plan.

Wherefore debtor respectfully requests that this Honorable Court enter an Order denying the Motion for Stay Relief, determining whether Chase is owed money for the 2004 2005 real estate taxes, and if not entering an Order denying Chase the right to collect said escrow shortage from Debtor during or after the chapter 13 case is completed and debtor is discharged, or alternatively requirig Chase to file an amended proof of claim and allowing debtor to file a Motion to modify and propose a modified plan to include any escrow shortage, and any other relief this court deems just.

Respectfully Submitted,
Law Offices of Michael Cohen
by: /s/ Rozalyn Landisburg, Esq.
2113 Snyder Avenue
Philadelphia, Pa. 19145
215-873-1159
610-505-7575